

REMARKS

In light of the following remarks and the above amendment, reconsideration and withdrawal of the restriction requirement is respectfully requested.

Claims 13-14 were amended to dependent from claims 5-6, respectively. Claims 17 and 18 were amended and new claims 29-32 (depending from 13 and 14) were added to avoid multiple dependencies. No new matter was added. Support for the present amendment can be found in the original claims and throughout the specification

Restriction and Election of Species Requirement

In response to the Restriction Requirement mailed November 16, 2005, Applicants elect *with traverse* Invention Group I, claims 1-12, and the following species: (1) epicatechin (flavanol), (2) dimer (procyanidin oligomer) and (3) TGF β (cytokine), respectively.

Applicants traverse the restriction requirement for the following reasons. The key finding described in the present application is that individuals differ in their baseline cytokine levels, and because of such differences, one individual may respond to the same drug differently from another individual. For example, as illustrated in the Example, a person who is a low baseline TGF- β producer will achieve homeostasis (vis-à-vis that cytokine) with the help of one compound (e.g. flavanol monomer) while another person who is a high baseline TGF- β producer will achieve homeostasis with the help of another compound (e.g. procyanidin hexamers) (compare Figures 2 and 3). This finding provides the basis for personalized dietary and/or pharmaceutical interventions, and assays supporting such personalized interventions, all of which are described and claimed in the present application. Because the relationship between cytokine baseline levels and individual's responsiveness to treatment is the basis for all pending claims, prior art search with respect to any of the restriction groups would uncover art relevant to the other groups. Thus, withdrawal of the restriction requirement is believed to be in order and is respectfully requested.

Alternatively, Applicants respectfully request that the Examiner examines together claims of Groups I, II and IV for the reasons shown below.

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Method claims 9-16 (some of which are classified in Group I and others in Group II) differ from method claims 1-8 (Group I), respectively, solely by an additional step of "administering." Thus, for example, claim 5 recites four steps, and claim 13 recites the same four steps plus the step of "administering;" importantly, both claims 5 and 13 recite the step of "incubating the body sample with a series of flavanols and procyanidins" (it appears that the Examiner classified claims 13-18 into a separate invention group solely based on this "incubating" step (see, OA at page 2, under II.)). To further emphasize the relationship between claims 5-8 and claims 13-16, claims 13-16 were amended to depend from claims 5-8 respectfully. Thus, claims 13-16 (and new claims 29-32 depending therefrom) should be examined as part of Group I.

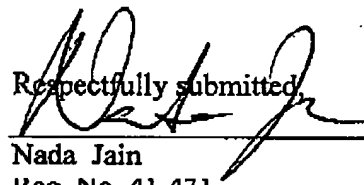
Amended claims 17-18 depend from claims 1, 2, 5, 6, 9 or 10 (all in Group I) and should therefore be examined together with the claims of Group I.

With respect to claims of Group IV (claims 25-28), Applicants respectfully request that they be examined with the claims of Group I. Search with respect to the elected species that will be performed regarding Group I will necessarily uncover prior art relevant to the claims of Group IV, which recite such species.

In view of the above remarks, reconsideration and withdrawal (or modification) of the restriction requirement is respectfully requested.

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Respectfully submitted,


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